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EXHIBITS:

Exhibit A: Agreement checklist

1. Overview

The Federal-Aid Highway Program and most local programs funded from the State Highway Account are reimbursable programs. Agreements (contracts) must be executed in order to pay funds to the local agency. The Office of Local Programs (OLP) will prepare all agreements and process them directly with the local agency. The agreements must be executed before any invoices for payment can be processed.

2. Method

References:

23 U.S.C. 630.301 et. seq.
Local Programs Manual Volume I, Sec. 16
LPPs 94-02 & 09 (Partnership Program)
Published Memos Weaver/Kiff, 2/20/93, Everitt 5/28/93 & 1/5/95 (Exchange & Match procedures).

Applicability:

Applies to all local agency projects receiving Federal-aid highway project funds and state highway account funds.

Guidance:

An agreement must be in place between the local agency and the state and for federal funds, between FHWA and the state in order to transfer (pay) funds.

3. General Agreements

3.1 Local Agency-State Master Agreement

A Local Agency-State Master Agreement is required of a local agency whenever federal or state funds are to be used on a local project funded from the following programs:

- Federal Aid
- TSM/FCR
- State Local Transportation Partnership

In the master agreement, a local agency agrees to comply with all federal/state laws, regulations, policies and procedures relative to the design, right of way acquisition, construction and maintenance of the completed facility. It is normally processed with the agency as it begins its first Federal-aid or State funded projects, once for each of the above three programs. The Local Agency-State Master Agreements are occasionally updated to account for changes in laws and policies and must be reexecuted with local agencies sponsoring local federal-aid/state funded projects.

3.2 Program Supplement Agreement

This supplement to the master agreement formalizes the financial responsibilities and provisions for a specific Federal-aid/state funded project in the categories defined above. This program supplement identifies the reimbursable phase(s) of work in addition to the types and amounts of federal, state and local funds used to finance the locally sponsored project. It is the contract allowing the state to pay the local agency for work done.

- Federal Aid

The "Request for Authorization" certification will define when the local agency needs the supplement agreement and Federal PR-2 Agreement to be prepared. For federal-aid projects, the OLP will normally prepare a Program Supplement Agreement upon completion of the construction phase authorization/obligation but prior to the advertisement of the project. If a local agency plans to request federal reimbursement for a phase(s) of work before it requests reimbursement for the construction phase, a separate program supplement is required for that phase(s) of work. The PR-2 must also be prepared. The local agency will prepare the Local Programs Agreement checklist (Exhibit A) defining general and specific conditions which need to be incorporated into the agreement. If costs have changed since the original submittal, a revised estimate, finance letter and verification of FTIP/FSTIP consistency should be submitted to the DLAE.

The Program Supplement Agreement should be executed by both the local agency and state in a timely manner, preferably prior to awarding the contract. Standard covenants in a program supplement stipulate that payment of federal funds is limited to the amounts approved by the FHWA in the Federal-Aid Authorization to Proceed (E-76) or in the Project Agreement (PR-2)/Detail Estimate or its modification (PR-2A). Any increase in project costs above the authorized federal and state funds in the program supplement shall be the responsibility of the local agency unless modified by a later agreement or PR-2/2A revision. A revised estimate, finance letter and verification of FTIP/FSTIP consistency from the agency are needed to initiate these changes.

- TSM/FCR

For a project which will not be using federal funds, typically with construction costs of \$300,000 or less, a Program Supplement Agreement is prepared by the Office of Local Programs prior to advertising a project after the California Transportation Commission vote to allocate funds. For the remaining projects which will be implemented with federal funds, both the CTC vote and federal authorization would be completed before preparing the supplemental agreement. Information supplied at the CTC vote request and the agreement check list would define agreement conditions.

- State/Local Transportation Partnership Program

A Program Supplement Agreement is prepared by the Office of Local Programs after the award of the contract and after funds have been budgeted by the Legislature. The award amount is used in the calculation for the funds to be encumbered in the agreement.

4. Special Program Agreements

4.1 Annual Exchange & Match Agreement

These agreements are processed to exchange Federal-aid funds for state funds as provided by S&H Code 182.6 (g) et seq. At the beginning of each federal fiscal year, an annual calculation of the amounts available for exchange is made and a notification is sent to the MPOs, RTPAs and counties. The local agency notifies the District Local Assistance Engineer (DLAE) of the amounts they wish to exchange. The DLAE and Area Engineer review the request and OLP prepares an agreement for local agency signature and return to OLP for final execution.

4.2 Bicycle Lane Account Agreements

Applications are submitted to OLP for annual project selection. Upon selection, agreements for all projects for the year are prepared and submitted to accounting for fund encumbrance then processed for local agency signature and return to OLP for final execution.

4.3 Proposition 116 Agreements Bicycle Projects & EEM Agreements

Upon the second vote by CTC for funding, OLP prepares the Agreement and processes it for local agency signature and return to OLP for final execution. Funds are encumbered as part of the final execution process.

4.4 Railroad Service Contract

These are contracts between Caltrans and a railroad company. OLP processes these directly with the railroad. The local agency would not be involved in this contract, but would be involved in the agreement for federal funds for the project.

5. Processing

In its "Request for Authorization" for federal projects, the local agency will define at what project phase it wishes to begin invoicing its federal costs. Processing for Partnership Supplemental Agreements is begun when the agency provides the award data package to the DLAE and he submits the partnership finance letter to OLP. Timing for other agreements varies, but they must be executed by both the local agency and Caltrans before any invoice payments can be processed.

The local agency will submit the Local Programs Agreement checklist and, if not previously submitted, the two page field review summary (see Attachment 3, "Field Review") to the DLAE. After ensuring that these documents are complete, the DLAE will forward them to OLP. From this point, Local Agency/State agreements will be processed directly between Caltrans OLP in Sacramento and the local agency.

Agreements will returned for processing to the contact person and address shown on the project's local programs agreement checklist. The DLAE and OLP will maintain an address list for each local agency including the name of the contact individual(s). Each agency will inform both DLAE and OLP of any changes.

District staff will be informed of actions taken, but will not process or sign the agreements.

Agreement execution must be completed in a timely manner. Agreements must be returned with a resolution or minute order of the local agency governing body approving the agreement and authorizing a specific person(s) to sign it for the agency. Local agencies may authorize signature of future agreements by an individual, e.g. city manager, in general resolution without having to present each agreement to the governing board. This is acceptable and will speed up the process. Any changes to the document language made by the local agency may void the agreement.

Normally, funds will be encumbered before the agreement is sent to the local agency. The following agreements must be executed by the State in the state fiscal year in which the funds are encumbered:

- Federal Supplemental
- EEM

At times, especially near the close of the state fiscal year, the encumbrance may be delayed until the return of the agreement to OLP. This can speed processing and will avoid reprocessing the agreement if there is a delay in local agency response which crosses fiscal years. The agency should indicate on the agreements check list its willingness to execute such an agreement.

6. Federal-Aid Project Agreement (PR-2/PR-2A)

All local federal-aid projects must have a Federal-Aid Project Agreement. This agreement, between FHWA and the state, establishes the level of federal funds needed for reimbursement of the federal share of project costs and stipulates the state's compliance with federal requirements. It allows federal funds to flow to the state to reimburse the state for payments made by the state to the project sponsor. For the construction phase, the PR-2 is usually processed after receipt of bid opening/award information, see Attachment 8, "Construction Administration." This provides a more precise estimate for adjustment in the federal obligation amounts which were originally established in the "Authorization to Proceed". All requests for changes in costs or cost distribution on the PR-2 from those shown in the "Authorization to Proceed" (E-76) shall be accompanied by a new detailed estimate, a new finance letter and an appropriate explanation. Any increase in federal funds above that authorized in the PR-2 will require FHWA concurrence through the processing of a PR-2A. Adjustments in costs must be consistent with funding established for the project in the FHWA-approved MPO FTIP or the FSTIP.

7. State Highway & Other Agreements

There are various types of agreements involving Caltrans, other state agencies, local agencies and/or private entities. Example of these agreements include Grade Separation Fund, Cooperative, Joint Powers, Highway Powers, Highway Improvement, Escrow, PVEA, and Contribution Agreements and Service contracts. These are not processed to agencies by OLP but are developed and processed as defined in other Caltrans manuals and documents. The need for one or more of these agreements should not be overlooked during project development. see Attachment 3 & 7, "Field Review" and "Plans, Specifications and Estimates."

LOCAL PROGRAMS AGREEMENT CHECK LIST

Agency: _____

Request for agreement for federal/state funding: Project No. _____

A. Funds

_____ Federal _____ TSM match _____ FCR _____ TSM _____ SLTPP

_____ Match/Exchange _____ Bike Lane Acct. _____ EEM

_____ Prop. 116 Bicycle

Is a CTC 2nd vote required? _____ Yes _____ No

Has it been scheduled/voted? _____ Yes _____ No Date _____

B. Agreement Type

_____ Master _____ Supplemental* _____ Revised Supplemental* _____ PR-2/2A*

C. Phases to be Covered now:

_____ PE _____ ROW _____ Const. _____ Other (specify) _____

D. Standard Conditions

Who will: L = Local Agency S = State (Caltrans)

_____ Advertise _____ Award _____ Administer _____ Furnish RE _____ Maintain

Other Agency will: (Specify who) _____

_____ Advertise _____ Award _____ Administer _____ Furnish RE _____ Maintain

E. State to be Reimbursed for:

_____ Resident Engineer _____ Inspection _____ Other (specify) _____

F. Agency will sign agreement without fund encumbrance, if necessary. Yes _____ No _____

G. If multiple fund sources are to be used provide Finance Letter, Estimates and clarifying information defining references needed in the agreement.

H. On a separate sheet, describe any other special conditions applying to the project.

I. Cooperative Agreement No. (if there is one) _____

J. Contact Person _____ Date _____ Phone _____

Mail Address: _____

Attach required pages of Field Review if not previously submitted.

* Provide an updated finance letter if costs have changed from "Authorization to Proceed", also confirm that funding level is still consistent with FHWA approved TIP or TIP amendment.